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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

ROBERT "BOB" BURNS - Chairman
ANDY TOBIN
BOYD DUNN
SANDRA D. KENNEDY
JUSTIN OLSON

Arizona Corporation Commission

DOCKETED

APR 26 2019

DOCKETED BY

In the matter of

TITAN FUNDING GROUP I, LLC, an
Arizona limited liability company,

TITAN CAPITAL REAL ESTATE FUND
I, LLC, a Delaware limited liability
company

TITAN CAPITAL HOLDINGS LLC, a
Nevada limited liability company,

ADAM W. CHILD and ERIN M. CHILD,
husband and wife,

RODERICK R. RICKERT, a single man,

Respondents.

DOCKET NO. S-21054A-18-0301

DECISION NO. 77159

**ORDER TO CEASE AND DESIST, ORDER
FOR RESTITUTION, ORDER FOR
ADMINISTRATIVE PENALTIES AND
ORDER FOR OTHER AFFIRMATIVE
ACTION AGAINST TITAN CAPITAL REAL
ESTATE FUND I, LLC**

On September 11, 2018, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity for Hearing Regarding Proposed Order to Cease and Desist, Order for Restitution, Order for Administrative Penalties, and Order for other Affirmative Action (the "Notice") against Respondent Titan Capital Real Estate Fund I, LLC ("TCREF" or "Respondent").

On September 13, 2018, the Division served a copy of the Notice of Opportunity filed in this case upon TCREF by personally serving one of its officers. No request for a hearing or answer to the Notice has been filed as of April 8, 2019.

I.**FINDINGS OF FACT**

1. Titan Capital Holdings LLC (“Titan Capital”) was formed in Nevada on September 8, 2010, and has been registered to do business in Arizona as a foreign entity since December 28, 2010. The original Articles of Organization filed with the Nevada Secretary of State and the corporate filings with the Commission list Rickert as the managing-member of Titan Capital.

2. Titan Funding Group I, LLC (“TFG”) was formed in Arizona on July 7, 2011, as a member-managed company with Titan Capital as the sole member-manager.

3. TCREF is a Delaware limited liability company formed on September 4, 2013. It did not register as a foreign entity in Arizona.

4. In its operating agreement, TCREF states that it is managed by TCG Management LLC, also a Delaware company. Private placement memorandums for TCREF list Child and Rickert among its key managers and employees. TCREF’s marketing materials describe TCREF’s executive team, with Rickert as the CEO and Child as the President. In its private placement memorandum, TCREF says that Titan Capital will originate loans on behalf of TCREF.

5. In 2010, Rickert operated a business that assisted people in buying foreclosure properties. Doing business as “INFOclosure,” Rickert’s company produced software that listed distressed properties being sold at foreclosure auctions. INFOclosure also assisted with purchasing the properties at auction.

6. In late 2010, Rickert created Titan Capital to make hard-money loans—i.e. loans of typically less than 24 months with relatively higher interest rates—to purchasers of real property, including foreclosure properties. The typical borrower would use the funds to “fix-and-flip” a property, i.e. purchase a foreclosed, bank-owned or short-sale, single-family property, perform maintenance and reconstruction, then sell the property. Titan Capital would secure its loan to these borrowers with a mortgage or deed of trust recorded on the property. Titan Capital hired Adam Child to be its president in early 2011 to operate this lending business.

1 7. In 2013, Rickert and Child created TFG and TCREF to raise funds for Titan Capital's
2 lending operations. TFG and TCREF would obtain funds from investors, pool those funds, then transfer
3 funds to Titan Capital. Titan Capital would make loans to persons to purchase properties to "fix-and-
4 flip" and Titan Capital held a first-position lien on such property. Titan Capital also lent money to
5 persons to perform construction on the properties where Titan Capital held a first-position lien. The
6 construction loan would be secured by a second-position lien.

7 8. Titan Capital would charge the borrowers an interest rate between 12% and 18%. It
8 would make its profits on the spread between this interest rate and the 10 – 11% that TCREF/TFG
9 had to pay to investors.

10 9. Titan Capital would receive a deed of trust securing the loan. Titan Capital was then
11 to enter a pledge agreement with TCREF/TFG where Titan Capital would assign its beneficial
12 interest in the deed of trust to TCREF or TFG.

13 10. Beginning in October 2013, TCREF began seeking investors and offering limited
14 liability company membership interests to potential investors.

15 11. From October 2013 through September 2015, TCREF sold limited liability company
16 membership interests to at least eight persons for a total of at least \$3,794,462. TCREF represented
17 to investors that TCREF would make annual distributions to investors from TCREF revenues that
18 would equal 10% of the amount invested by each respective investor. The TCREF investors have
19 received returns totaling approximately \$688,202.

20 12. TCREF found these offerees and investors by emailing potential investors on customer
21 lists purchased from marketing firms, holding seminars, contacting existing acquaintances, obtaining
22 referrals from existing investors, and by contacting customers of Child's and Rickert's other businesses.

23 13. Child personally offered notes and membership interests to at least 19 of the TFG and
24 TCREF investors.

25 14. Rickert personally offered notes and membership interests to at least 10 of the TFG
26 and TCREF investors.

1 **Misrepresentations and omissions regarding use of investor funds**

2 15. TCREF funds were transferred to Titan Capital. Titan Capital then commingled those
3 funds with its capital and capital from related entities. When Titan Capital failed in October 2015,
4 TCREF failed too, resulting in investors losing almost the entire amount invested. In February 2016,
5 Rickert caused Titan Capital and its related entities to go into voluntary receivership. After a few months
6 of the receiver locating assets and reviewing records, it was revealed that Titan Capital's operations
7 differed significantly from representations made to TCREF investors: it had transferred only a portion
8 of its funds to escrow/title companies, owned few significant real property and deed of trust assets, had
9 made large transfers to Rickert-controlled entities, and may have been insolvent almost from its
10 inception.

11 16. TCREF represented to investors and offerees that their funds would be used by Titan
12 Capital to fund hard money loans to borrowers who purchase, rehab, and sell residential properties; Titan
13 Capital's loan would be secured by a deed of trust that would be pledged to TCREF.

14 17. Through representations by TCREF and their employees, several investors understood
15 that their funds would only go towards loans and that TCREF and Titan Capital would pay for
16 operational expenses with revenues from the interest charged to borrowers.

17 18. TCREF further represented to several investors that Titan Capital was a licensed
18 mortgage broker in Arizona and Nevada and was pursuing similar licensing in California.

19 19. TCREF described mortgage broker activities when it represented in its private placement
20 memorandum that Titan Capital would pledge 100% of its interest in pools of loans, deeds of trust,
21 mortgages and similar interests that originated from Titan Capital's financing activities. This would
22 secure TCREF's obligations to its investors. A copy of the pledge agreement was included in TCREF's
23 PPMs.

24 20. Under A.R.S. § 6-906(c), mortgage brokers "shall immediately deposit all monies
25 received by the mortgage broker in an escrow account with an escrow agent licensed pursuant to [A.R.S.
26 Title 6, Chapter 7]. Withdrawals shall only be disbursed according to the terms of the escrow

1 instructions. The escrow agent shall not be the mortgage broker.” The same statute requires that
2 mortgage brokers not commingle their appraisal and credit investigation fees with the broker’s other
3 monies.

4 21. From 2013 through 2015, TCREF received approximately \$3,794,462 from investors.

5 22. These funds were commingled with funds from TFG investors and Titan Capital, for a
6 total of approximately \$18.6 million that was to go to Titan Capital’s primary business: making hard-
7 money loans to borrowers who purchase, rehab, and sell residential properties.

8 23. Of the approximately \$18.6 million of investor funds in Titan Capital’s control, all of
9 which should have gone to lending, Titan Capital only transferred approximately \$8.8 million to escrow
10 and title companies. Titan received only approximately \$6.8 million from the title/escrow companies in
11 return—far less than the principal amount transferred.

12 24. During 2013 – 2015, Titan Capital made several transfers that were not for funding
13 loans to borrowers:

14 a) A net of approximately \$1.4 million to Rickert’s entity, Infoclosure, and other
15 Rickert-controlled entities;

16 b) Approximately \$4.5 million to pay an equity fund that had lent money to Titan
17 Capital;

18 c) Approximately \$4.7 million for probable business expenses of Titan Capital
19 and other related or Rickert-controlled entities;

20 d) Approximately \$1.9 million to a condominium development in Flagstaff
21 managed by one of Titan Capital’s and TCREF’s major investors;

22 e) Approximately \$1.5 million to Titan Capital Management, an entity controlled
23 by Rickert and Child through which they were to obtain payment;

24 f) Approximately \$223,000 for Child’s expenses including child support
25 payments and payments to the IRS; and

26 g) Approximately \$191,000 for Rickert’s expenses.

1 25. Because of these various transfers and failure to conduct its business as represented,
2 Titan Capital's assets were insufficient to pay even a fraction of the amount owed to TCREF
3 investors. In 2015, Titan Capital, TFG, TCREF and other related entities filed for receivership. The
4 receiver's reports show that in May 2016, Titan Capital's assets consisted of four properties that the
5 receiver sold for \$62,703 of net proceeds; interests in 10 performing loans producing monthly income
6 of \$1,793; interests in four loans in default; five contracts for deeds of trust; ownership of two deeds
7 of trust; and a construction loan that later netted \$32,865 for the receiver. In two years of managing
8 the receivership, identifying and liquidating the entities' assets, the receiver was only able to collect
9 a total of \$234,191.64.

10 **Omissions relevant to Adam Child's qualifications**

11 26. In TCREF private placement memorandums and offering materials, Respondents
12 represented that a key officer, Adam Child, was a competent manager with a proven track record of
13 success in real estate financing.

14 27. TCREF omitted material information that would allow investors to evaluate
15 Respondent's claims of Child's past success, the claims of Respondent's ability to generate returns,
16 and Child's ability to manage a company that would generate these returns. These omissions include:

17 a) On June 8, 2009, the Coconino County Superior Court entered judgment
18 against Child for \$2,957,227 which includes \$1,956,000 treble damages for fraud and racketeering
19 committed by Child in a real estate development enterprise near Flagstaff, Arizona.

20 b) In 2009, Child filed for bankruptcy protection. In his bankruptcy, Child sought
21 to discharge the judgment described above along with \$2,800,004 of unsecured claims which
22 included \$263,945 of credit card debt, several deficiencies on foreclosed properties totaling over
23 \$405,000, unpaid office rent, unpaid HOA fees, a \$40,000 deficiency on an automobile lease, and a
24 \$570,000 personal loan. Child's bankruptcy schedules also list \$130,000 of unpaid taxes and \$60,000
25 of unpaid child and spousal support.
26

CONCLUSIONS OF LAW

8. Respondent's conduct is grounds for administrative penalties under A.R.S. § 44-2036.

III.**ORDER**

THEREFORE, on the basis of the Findings of Fact, and Conclusions of Law, the Commission finds that the following relief is appropriate, in the public interest, and necessary for the protection of investors:

IT IS ORDERED, pursuant to A.R.S. § 44-2032, that Respondent, and any of Respondent's agents, employees, successors and assigns, permanently cease and desist from violating the Securities Act.

IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, that TCREF shall, jointly and severally with all other respondents under Docket No. S-21054A-18-0301, pay restitution to the Commission in the principal amount of \$3,026,315 (i.e. the \$3,794,462 of principal invested in TCREF less the \$688,202 the Respondents returned to investors and the \$79,945 the receiver paid to investors from proceeds from its settlement with Child and from liquidated respondent entities' assets). This restitution is ordered as a result of the conduct set forth in the Findings of Fact and Conclusions of Law. Payment is due in full on the date of this Order. Payment shall be made to the "State of Arizona" to be placed in an interest-bearing account controlled by the Commission.

IT IS FURTHER ORDERED that the restitution ordered in the preceding paragraph will accrue interest, as of the date of the Order, at the rate of the lesser of (i) ten percent per annum or (ii) at a rate per annum that is equal to one per cent plus the prime rate as published by the board of governors of the federal reserve system in statistical release H. 15 or any publication that may supersede it on the date that the judgment is entered.

The Commission shall disburse the funds on a pro-rata basis to investors shown on the records of the Commission. Any restitution funds that the Commission cannot disburse because an investor refuses to accept such payment, or any restitution funds that cannot be disbursed to an investor because the investor is deceased shall be disbursed on a pro-rata basis to the remaining investors

1 shown on the records of the Commission. Any funds that the Commission determines it is unable to
2 or cannot feasibly disburse shall be transferred to the general fund of the state of Arizona.

3 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that TCREF shall pay an
4 administrative penalty in the amount of \$50,000 as a result of the conduct set forth in the Findings of
5 Fact and Conclusions of Law. Payment is due in full on the date of this Order. Payment shall be
6 made to the "State of Arizona." Any amount outstanding shall accrue interest as allowed by law.

7 IT IS FURTHER ORDERED that the administrative penalty ordered in the preceding
8 paragraph will accrue interest at the rate of the lesser of (i) ten percent per annum or (ii) at a rate per
9 annum that is equal to one per cent plus the prime rate as published by the board of governors of the
10 federal reserve system in statistical release H. 15 or any publication that may supersede it on the date
11 that the judgment is entered.

12 IT IS FURTHER ORDERED that payments received by the state of Arizona shall first be
13 applied to the restitution obligation. Upon payment in full of the restitution obligation, payments
14 shall be applied to the penalty obligation.

15 IT IS FURTHER ORDERED, that if TCREF fails to comply with this order, the Commission
16 may bring further legal proceedings against Respondent, including application to the superior court
17 for an order of contempt.

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IT IS FURTHER ORDERED that this Order shall become effective immediately.


BY ORDER OF THE ARIZONA CORPORATION COMMISSION


CHAIRMAN BURNS


COMMISSIONER DUNN


COMMISSIONER TOBIN


COMMISSIONER KENNEDY


COMMISSIONER OLSON



IN WITNESS WHEREOF, I, MATTHEW J. NEUBERT, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 26 day of April, 2019.


MATTHEW J. NEUBERT
EXECUTIVE DIRECTOR

DISSENT

DISSENT

This document is available in alternative formats by contacting Kacie Cannon, ADA Coordinator, voice phone number (602) 542-3931, e-mail kcannon@azcc.gov.

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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 ROBERT "BOB" BURNS - Chairman
4 ANDY TOBIN
5 BOYD DUNN
6 SANDRA D. KENNEDY
7 JUSTIN OLSON

8 In the matter of:

9 TITAN FUNDING GROUP I, LLC, an Arizona
10 limited liability company,

11 TITAN CAPITAL REAL ESTATE FUND I,
12 LLC, a Delaware limited liability company,

13 TITAN CAPITAL HOLDINGS LLC, a Nevada
14 limited liability company,

15 ADAM W. CHILD and ERIN M. CHILD,
16 husband and wife,

17 RODERICK R. RICKERT, a single man,

18 Respondents.

DOCKET NO. S-21054A-18-0301

**CERTIFICATION OF SERVICE OF
PROPOSED OPEN MEETING
AGENDA ITEM**

19 On this 9th day of April 2019, the foregoing document was filed with Docket Control as a
20 Securities Division Memorandum & Proposed Order. On this date or as soon as possible thereafter,
21 a copy of the foregoing will be mailed to the following who have not consented to email service.

22 Roderick Rickert

23 501 W Laredo Ave

24 Gilbert, AZ 85233

Individual respondent and officer of respondent Titan Capital Real Estate Fund I

25 Lee Stein

26 Anne Chapman

Anna Finn

MITCHELL STEIN CAREY CHAPMAN

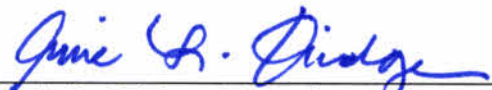
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7 By: 
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